

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4259 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

PANCHAVATI TV VIDIO CLUB ASSOCIATION

Versus

DIST MANAGER- TELECOME

Appearance:

MR MUKESH A PATEL for Petitioner
MS DARSHNA PANDIT, AGP for the State
Notice served to Respondents no. 2 to 5

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 01/09/2000

ORAL JUDGEMENT

1. The petitioner, described as a T.V. Video Club Association having 40 persons as its members as stated in the petition, has sought a direction on the respondents authorities not to enter, search or seize the premises of the petitioner and its members or to seize or confiscate

Video Cassette Recorder, Player, T.V. Set, Cables or any other ancillary instruments.

2. According to the petitioner, video films which are relayed by the petitioner club through cables can be viewed by the members of the club whose television sets are connected for the purpose of such viewing through the cable net work. It is stated that the members do not have to pay any charge for such purpose. According to the petitioner, the provisions of the Bombay Cinemas [Regulations] Act, 1953 and the Rules made therein were not applicable, and if they were to be applied, then they would be ultra vires Articles 14, 19 and 246 of the Constitution. It is also submitted that, in view of the exemption from license granted under the relevant Rules, known as Radio, Television & Video Cassette Recorder Sets [Exemption from Licensing Regulation] Rules, 1985, no license was necessary. The grievance of the petitioner is that the chairman of the petitioner club was personally called by the respondent No.3, who gave a threat for removal of cables and also in respect of the video cassette recorder, which was played in the premises for the purpose of relay. It is contended that the respondents have no power, authority or jurisdiction to raid the premises of the petitioner or to seize and confiscate the video cassette recorder or disc antenna.

3. The petition purports to prevent the concerned authorities of the Telecommunication Department and the Police as well as Government from exercising its powers under various laws, even if there may be breach committed. It is a petition containing vague allegations and of a general nature. If there is violation of any of the provisions relating to showing films by a cable net work, the law should take its own course, and there cannot be a general mandate preventing the authorities from not taking action in the matter notwithstanding any violation of law. It appears that the Gujarat Cinemas [Regulations of Exhibition by Video] Rules, 1984, as amended by the Gujarat Cinemas [Regulations of Exhibition by Video] [Amendment] Rules, 1994, contemplated certain powers of the licensing authority. Therefore, as and when any question of breach of any relevant provisions of law may arise which may entitle the authority concerned to exercise its powers, it would be the duty of the authority to take action in accordance with law. There is therefore no case for giving any general mandate in the matter.

4. The petition is therefore rejected. Rule is discharged with no orders as to costs. Interim relief

stands vacated.

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